



Senate

General Assembly

January Session, 2005

File No. 157

Senate Bill No. 785

Senate, April 5, 2005

The Committee on Environment reported through SEN. STILLMAN of the 20th Dist., Chairperson of the Committee on the part of the Senate, that the bill ought to pass.

AN ACT CONCERNING THE BAN OF CERTAIN POLYBROMINATED DIPHENYL ETHERS.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. (NEW) (*Effective October 1, 2005*) (a) No person shall sell or
2 offer to sell, or distribute for promotional purposes, a product
3 containing more than one per cent of the penta or octa mixtures of
4 polybrominated diphenyl ethers.

5 (b) For the purposes of enforcement of this section, officers or
6 employees duly designated by the Commissioner of Consumer
7 Protection, upon presenting appropriate credentials to the owner,
8 operator or agent in charge, are authorized (1) to enter, at reasonable
9 times, any factory, warehouse, establishment or store in which
10 products containing more than one per cent of the penta or octa
11 mixtures of polybrominated diphenyl ethers are manufactured,
12 processed, packed, sold or held for introduction into commerce or are
13 held after such introduction, or to enter any vehicle being used to

14 transport or hold such products in commerce; (2) to inspect, at
15 reasonable times and within reasonable limits and in a reasonable
16 manner, such factory, warehouse, establishment, vehicle or store and
17 all pertinent equipment, finished and unfinished materials, and
18 labeling therein; and (3) to obtain samples of such materials or
19 packages thereof, or of such labeling. If the officer or employee obtains
20 any sample, prior to leaving the premises, the office or employee shall
21 pay or offer to pay the owner, operator or agent in charge for such
22 sample and give a receipt describing the samples obtained.

23 (c) Any person who violates the provisions of subsection (a) of this
24 section shall be fined not more than one hundred dollars per product
25 sold, offered for sale or distributed for promotional purposes.

26 Sec. 2. (*Effective from passage*) The Commissioner of Environmental
27 Protection, in consultation with the Commissioner of Public Health,
28 shall review relevant risk assessments in connection with the deca
29 mixtures of polybrominated diphenyl ethers and the relevant findings
30 and rulings by the United States Environmental Protection Agency and
31 the European Union. Not later than January 1, 2006, the Commissioner
32 of Environmental Protection shall report, in accordance with the
33 provisions of section 11-4a of the general statutes, its findings and
34 recommendations regarding the regulation of such mixtures to the
35 joint standing committee of the General Assembly having cognizance
36 of matters relating to the environment.

| | | |
|---|------------------------|-------------|
| This act shall take effect as follows and shall amend the following sections: | | |
| Section 1 | <i>October 1, 2005</i> | New section |
| Sec. 2 | <i>from passage</i> | New section |

ENV Joint Favorable

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either House thereof for any purpose:

OFA Fiscal Note

State Impact:

| Agency Affected | Fund-Effect | FY 06 \$ | FY 07 \$ |
|---|-------------|-----------|-----------|
| Consumer Protection, Dept. | GF - Cost | 56,954 | 54,454 |
| Comptroller Misc. Accounts (Fringe Benefits) | GF - Cost | 26,220 | 26,220 |
| Department of Environmental Protection | GF - Cost | See Below | See Below |
| Public Health, Dept. | GF - None | None | None |

Note: GF=General Fund

Municipal Impact: None

Explanation

The bill authorizes the Commissioner of the Department of Consumer Protection (DCP) to designate officers or employees to enter and inspect factories, stores, or vehicles, in which products containing more than 1% of penta- or octa-polybrominated diphenyl ether (PBDE) are manufactured, processed, sold, or held. In order to implement the inspection provisions of the bill, DCP will incur costs of \$49,472 in FY 06 and FY 07 for one Inspector and \$4,982 for other expenses and equipment.¹ Furthermore, in FY 06, DCP will incur one-time start-up costs of \$2,500.

Requiring the Department of Environmental Protection (DEP) to review relevant risk assessments of polybrominated diphenyl ether would increase costs to the Department by a minimum of \$30,000. Performance of a basic assessment for each individual chemical costs

¹ The fringe benefit costs for state employees are budgeted centrally in the Miscellaneous Accounts administered by the Comptroller. The estimated fringe benefit reimbursement rate as a percentage of payroll is 53.91%, effective July 1, 2004. However, first year fringe benefit costs for new positions do not include pension costs lowering the rate to 22.65%. The state's pension contribution is based upon the prior year's certification by the actuary for the State Employees Retirement System.

approximately \$10,000. The exact impact would depend upon the number of chemical mixtures reviewed and how many were looked at by the U.S. Environmental Protection Agency and the European Union and is unknown at this time. Under current statute, the DEP is not the agency responsible for undertaking risk assessments.

The Department of Public Health can consult with the DEP within their normal duties and current budgetary resources.

OLR Bill Analysis

SB 785

**AN ACT CONCERNING THE BAN OF CERTAIN
POLYBROMINATED DIPHENYL ETHERS****SUMMARY:**

This bill restricts the sale or distribution of two types, and requires the evaluation of a third type, of polybrominated diphenyl ether (PBDE), a chemical used as a flame retardant in household products. It authorizes the consumer protection commissioner to inspect (1) facilities that manufacture, process, pack, sell, or store, and (2) vehicles that transport or store, products containing the banned variants of PBDE, and to obtain samples of the products. It imposes a fine on anyone who sells or distributes products containing the banned chemicals.

EFFECTIVE DATE: October 1, 2005, except for the requirement to study deca-PBDE, which takes effect upon passage.

PBDE Ban and Inspection of Facilities and Vehicles

The bill prohibits anyone from selling, offering to sell, or distributing for promotional purposes any product containing more than 1% of penta- or octa-PBDE.

It authorizes the Department of Consumer Protection (DCP) commissioner to designate officers or employees to enter and inspect factories, warehouses, establishments, or stores in which products containing more than 1% of penta- or octa-PBDE are manufactured, processed, packed, sold, or held for introduction into commerce, or are held after introduction. The designated DCP inspectors also may enter any vehicle used to transport or hold such products in commerce. The inspectors must present appropriate credentials to the owner, operator, or agent in charge of the facility and must conduct inspections at reasonable times, within reasonable limits, and in a reasonable manner.

The inspectors may examine and obtain samples of all pertinent equipment, finished and unfinished materials, labeling, and packages. The DCP inspectors must pay, or offer to pay, the owner, operator or agent for any sample, and provide him with a receipt describing the product before leaving the premises.

Any person who sells, offers to sell, or distributes a product containing more than 1% of penta- or octa-PBDE is subject to a fine of up to \$100 per product sold, offered for sale, or distributed. It is not clear if the fine is levied on each item or on each product line.

Review of Deca-PBDE

The bill requires the environmental protection commissioner, in consultation with the public health commissioner, to review relevant risk assessments of deca-PBDE, and the relevant findings and rulings of the U.S. Environmental Protection Agency (EPA) and the European Union. She must report her findings and recommendations regarding the regulation of deca-PBDE to the Environment Committee by January 1, 2006.

BACKGROUND

PBDE

Penta-, octa-, and deca-PBDE are three mixtures of a chemical used as a flame retardant in such products as furniture foam, TV cabinets, computer casings, consumer electronics, small appliances, drapes, and carpets. PBDEs slow ignition time and rate of fire growth, allowing people more time to escape from a fire. However, there is growing evidence that PBDEs persist in the environment and accumulate in people's bodies, possibly causing harm to the liver, thyroid, and nervous system. The EPA is working with chemical manufacturers to find safer alternatives to PBDE.

COMMITTEE ACTION

Environment Committee

Joint Favorable Report

Yea 26 Nay 0